an offer. *Darlington v. Foote,* 16 Fed., 646; *Trevor v. Colgate,* 36 N. Y., 307. Likewise, it is immaterial that through mistake or accident of the carrier the acceptance is delayed or not delivered. *Hunt v. Higman,* 70 Iowa, 406; *Washburn v. Fletcher,* 42 Wis., 152. But any negligence on the part of the sender causing a delay will vitiate the contract. *Maclay v. Harvey,* 90 Ill., 525; *Blake v. Hamburg Bremen Ins. Co.,* 67 Tex., 160. And it is well settled that the acceptance of an offer must be sent in manner indicated by the one making the offer. *Vassar v. Camp,* 14 Barb. (N. Y.), 341. Furthermore, the rule that a letter of acceptance takes effect when mailed does not apply where the offer requires actual receipt of the letter or telegram of acceptance. *Lewis v. Browning,* 130 Mass., 173.

CONTRACTS—RESCISSION.—BELTINCK V. TACOMA THEATER CO., 111 PAC., 1045 (WASH.).—*Held,* that where a contract for the display of an advertising curtain in defendant's theater required payment to them by plaintiff of a certain sum monthly in advance, defendants by accepting deferred payments were not precluded from rescinding the contract on default in a subsequent payment, having protested against plaintiff's course of dealing, and having repeatedly threatened to remove the curtain for nonpayment of installments.

Where one party to a contract declares that he will not perform his part, or so acts as to make it impossible for him to do so, he thereby releases the other from the contract and the obligations. *Anson, Contracts,* p. 365; *Wolf v. Marsh,* 54 Cal., 228. But this right to rescind depends upon whether the promise of the party injured was given conditionally on the performance by the other of that in which he has made default. *Anson, Contracts,* p. 366. In general a contract cannot be rescinded by one party even though the other is in default, unless both parties can be placed in the same situation as when the contract was made. *Norton v. Young,* 3 Me., 30; *Brown v. Witter,* 10 Ohio, 142. Moreover, if a party intends to rescind a contract because of the failure of the party to perform he should give a clear notice of his intention, unless the contract itself dispenses with such notice or unless notice becomes unnecessary by reason of the conduct of the parties. *Hennessy v. Bacon,* 137 U. S., 78. And he must rescind promptly and decidedly on the first information of the breach. *Lawrence v. Dale,* 3 Johns Ch. (N. Y.), 23. It must be done at the time specified if there be such a time; or within a reasonable time. *Kingsley v. Wallis,* 14 Me., 57; *Holbrook v. Burt,* 22 Pick. (Mass.), 546. Otherwise the delay to rescind the contract gives up the right. *Mills v. City of Osawatomie,* 59 Kan., 463. Where promises are divisible, that is, where the contract contains a number of promises to do a number of similar acts, a breach of one of them does not discharge the other party from completing the contract. *Norris v. Harris,* 15 Colo., 226; *Cohen v. Platt,* 69 N. Y., 348; *contra*: *Clark v. Baker,* 5 Metc. (Mass.), 452; *Catlin v. Tobias,* 26 N. Y., 217. But where the term may be regarded as essential then its breach gives the right to rescind. *Leonard v. Dyer,* 26 Conn., 172; *Nolan v. Whitney,* 88 N. Y., 648.

DAMAGES—PERSONAL INJURIES—MENTAL SUFFERINGS.—MERRILL V. LOS ANGELES G. & E. CO., 111 PAC., 534 (CAL.).—*Held,* that mental worry,

distress, grief, and mortification are proper elements of mental suffering for which an injured person can recover; recovery not being limited to the form of mental suffering described as physical pain.

The general rule is that actual damages resulting from a wrongful act are not limited to the direct pecuniary loss sustained, but are also extended to the mental distress which is fairly and reasonably the consequences of the injury. *Morse v. The Auburn & Syracuse R. R. Co.*, 10 Barb. (N. Y.), 621; *Peoria Bridge Assn. v. Loomis*, 20 Ill., 235; *Ransom v. N. Y. & Erie R. R. Co.*, 15 N. Y., 416; *Morse v. Duncan*, 14 Fed, 396; *Muldowney v. Ill. Cen. R. R. Co.*, 36 Iowa, 462; *Randolph v. H. & St. J. R. R. Co.*, 18 Mo. App., 609. The extent of this remedy is largely within control of the jury, there being no precise rule by which the injury can be measured. *Coffin v. Coffin*, 4 Mass., 1; *Wadsworth v. Treat*, 43 Me., 163. Connecticut holds that the person injured is entitled to damages equivalent to the apprehension and anguish of mind naturally excited by the risk and danger at the time of injury. *Seger v. Barkhamsted*, 22 Conn., 290; *Master v. Town of Warren*, 27 Conn., 293; *Lawrence v. H. R R Co.*, 29 Conn., 290.

DEEDS—DESCRIPTION—EVIDENCE AND UNCERTAINTY.—HALL V. BARTLETT, 112 PAC., 176 (CAL.).—*Held*, that a deed, which on its face contains two inconsistent descriptions, either of which will identify a different piece of property, discloses a patent ambiguity which, as a general rule, cannot be removed by parol evidence, and the deed is void for uncertainty. Beatty, C. J., and Sloss and Augellottis, J. J., *dissenting*.

In general a deed is void if the description is too vague and uncertain. *Webb v. Ritter*, 60 W. Va., 193, 229; *Gordon v. Goodman*, 98 Ind., 269. This uncertainty may naturally arise from ambiguity of description, so as to inconsistently identify different pieces of property. *Smith v. Proctor*, 139 N. C., 314; *Crawford v. Verner*, 122 Ga., 814; *Brandon v. Leddy*, 67 Cal., 43. But to render the deed actually void for uncertainty the ambiguity must be patent on the face of the deed. *Campbell v. Johnson*, 44 Mo., 247; *Mudd v. Dillon*, 166 Mo., 110. The office of a description is not to identify the land conveyed but to furnish means of identification. *Eden v. Miller*, 147 Ind., 208. Therefore, whether the description is really uncertain or ambiguous is to be determined from an inspection of the entire description and deed, and from a construction of the same that is not only reasonable, but tends to give effect to the deed rather than defeat it. *Walker v. Lee*, 51 Fla., 360; *Holley's Ex'r v. Curry*, 58 W. Va., 70. In the light of these conclusions parol evidence will not, as a general rule, be admitted to explain, remove, or make certain patent ambiguities, as distinguished from latent ambiguities. *Storer v. Freeman*, 6 Mass., 435; *Holmes v. Whitaker*, 119 N. C., 113. The property ought to be identified without the help of parol testimony or arbitrary discretion of an officer or court. *Diamond Plate Glass Co. v. Tennell*, 22 Ind. App., 132. But if the deed and the intention of the parties must be construed by the parties in some way, the court is entitled to the light of all the circumstances surrounding the parties in order to determine the property intended to be conveyed. *Reynolds v. Lawrence*, 147 Ala., 216.